

Final Report

Committee on Children with Special Needs

Under the Auspices of Office of the City Council President

Yonkers, New York

November 2020

History of the Committee

The committee on Children with Special Needs was initiated in June 2018, under the auspices of City Council President, Mike Khader. The committee is made up of nine volunteers who represent a substantial cross-section of the Yonkers community. Each member contributed a wealth of experience and talents as school professionals, community activists, parents and individuals dedicated to serving the interests of the Special Education Community in our city.

Our mission was to identify, analyze and recommend effective policies to mitigate special education concerns within the Yonkers Public Schools. During our time together we have interviewed key personnel, explored the current research regarding special education issues, examined the history of the school system in managing special education and crafted a series of recommendations based on the law and proven practices which we believe will enhance and substantially improve the experience of special needs youngsters and their families.

Members of the Committee

Gail Baxter

Sonia Byrd

Deborah Collier - Co-Chair

Alexandra Connally

Aminah Lucio

Arthur Maloney - Co-Chair

DaQueen Monroe

Stephan Spilkowitz

Christy Brockhausen (ex. officio)

Executive Summary

“Everybody Counts or Nobody Counts”

Michael Connally

As the statement above suggests we believe that all students regardless of their circumstances defined by race, poverty, second language or disabilities should be equal partners in the drive to “create equity and access” in the Yonkers Schools for all of its students. (Strategic Plan pp.19-22) The committee’s report focused on three main areas in examining the circumstances and needs of the Special Education Community in the City of Yonkers. The key areas in our report include:

I. Special Education and the Covid 19 Pandemic

II. The State of Social Justice and Discipline Policy as it affects the special education population

III. The Budgeting, Policy and Legal Issues which have continued to plague the Special Education community

Further, we have found gaps in attention to and a failure to resolve significant, chronic public policy issues relative to special education students in the City of Yonkers. Despite frequent sanctions and citations from both the Federal Government and the New York State Department of Education, resolution of concerns remains inadequate. Accountability for this legacy of the deficient treatment of this vulnerable population of students and their families can only be explained by a repeated failure of agencies charged with addressing these perennial problems. At the heart of this concern are the ambiguous and problematic oversight issues that currently exist between the City Council and the Board of Education. Parents and educators remain unclear as to which government agency is responsible for the oversight of school budgetary and policy issues.

We believe that the city government, Board of Education and school administration need to take bold legislative action by proposing changes in the administration of the schools to provide realistic, timely solutions, establish clear avenues of responsibility and make concerted efforts to meet the requirements of state and federal laws for the 20% of the school population at additional risk through lack of accountability.

There is little doubt in our minds that this school system cares deeply about the needs and success of all its students. This school administration can point to several major leaps forward for the overall student population in the district. In terms of Special Education, they have assembled a team of knowledgeable, experienced, and caring individuals who struggle daily with a legacy of gross underfunding, community distrust, and poor management. The extraordinary issues surrounding the pandemic have magnified these problems and added considerably to the anxiety and frustration of the students and families of our community's most vulnerable members. We appreciate that the personal and fiscal challenges are overwhelming and controversial. There are no quick fixes or windfalls on the horizon from Albany or Washington D.C. that will address all programmatic shortcomings. With the uncertainty surrounding the Covid crisis and with no end in sight we nonetheless see real opportunities to consider new ideas and begin the painstaking process of rebuilding the special education program for the underserved special needs students.

I. Special Education and the Covid 19 Pandemic

The current health crisis has further magnified the unequal burdens placed on disabled students and their families. Everything from delivery of instruction/therapy, accessibility, strain on families, and homework, exacerbate the issues surrounding students with disabilities. What educators used to refer to as the "summer slide" has evolved to the more serious and widespread "pandemic slide" where educational goals for all children have been compromised. We applaud the significant academic gains made by the Yonkers Public Schools, but it remains clear that special education students have not shared equally in the resources that made such gains possible. In an under-resourced and vulnerable community, Yonkers has consistently failed to meet the basic requirements for their special needs students, who are most at risk for regression because of discontinuity in instruction.

We seek a comprehensive, multi-year plan that proposes a gradual re-allocation of resources so that the educational experiences of previously underserved students can perform at a level close or equal to those who have successfully negotiated the current system. The plan should include recovery of lost instructional/therapeutic time, elimination of evaluation backlogs and the gradual addition of professional staff to meet the needs of this growing population. An annual update would be provided to the Board of Education and City Council to assess progress in addressing the goals for resolving these issues.

II. The State of Social Justice and Discipline Policy as it affects the special education population

The recently revised Yonkers Public Schools' Code of Conduct (2017) states that:

The Yonkers Public Schools Code of Conduct, adopted October 18, 2017, was revised by a committee of educators, community partners, parents and students, reviewed by the Board of Education Trustees, Superintendent of Schools, and available to the public for input.

The adopted Code of Conduct is based on theories of action including: Restorative Practices, Solutions Not Suspensions, Disproportionality Training, the District's 3 Year Strategic Plan and Response to Intervention - shift in instructional practice.

The current state of The Yonkers Student Code of Conduct is illusory and clearly not based on the stated foundations including, Disproportionality Training, Restorative Practices and Solutions rather than Suspensions. We are hard pressed to find the impact of the District's "Three-year Strategic Plan" involving the *Shift in Instructional Practice*. The stated procedures for discipline in the Yonkers Public Schools are routinely ignored and risk justifiable legal action for failure to follow the procedures expressly stated in the Handbook.

In addition, we have found significant anecdotal evidence over the past two years to assert that principals in the system routinely, "informally" suspend students including those with IEP's, out of school for indeterminate periods of time. In addition to being a clear violation of New York State Education Law, such actions undermine the spirit and intent of the Student Code of Conduct by circumventing the very policies created for and contributed to by the community.

Currently there are no public schools we could find in Yonkers that have adopted the core values or implemented the procedures contained in the Revised Code of Conduct relative to Restorative Practices.

Given the nature of our current national dialogue on race and social justice and the disproportionate impact of discipline policies on the special education students, we strongly recommend a renewed effort to initiate and embrace the principles of **Restorative Justice**, as well as a concerted effort to follow the precepts outlined and endorsed by the Board of Education in the Code of Conduct.

We also request an investigation, by the District Administration and School Board, of any future allegations of illegal suspensions in that such actions are significant violations of New York State School Law (NYS Education Law 3214) and the rights of Special Education Students who are entitled to a manifestation hearing before suspension.

III. The Budgeting, Policy and Legal Issues which have continued to plague the special education community

An examination of the district strategy over many years depicts a negative status quo where cuts to the special education program have had devastating consequences from which the capacity of the school system to deliver services has never quite recovered. While perennial cuts to the underfunded, under-resourced system have been the unacceptable legacy of the Yonkers Public

Schools, we contend that the appearance of equitable cuts across the board are inherently inequitable, given the history and devastation suffered by the overall population of students with disabilities.

The Commissioner's Regulations mandate that...*"the board of education in a city having a population in excess of 125,000 inhabitants shall appoint subcommittees on special education to the extent necessary to ensure timely evaluation and placement of students with disabilities..."*

Despite admirable efforts on the part of the district to increase capacity among the special education staff and services, we remain woefully under-served, resulting in a lamentable backlog of referrals, placements and services for this vulnerable population.

Budgetary constraints have challenged the ability to move at an acceptable pace, given the gravity of the stagnant nature of special education in our Yonkers schools. We advocate for a thorough review of all fiscal federal, state, and local resources, including grants and partnerships to determine ways to enhance and augment budgets, staffing and services for our families.

Findings and Concluding Recommendations

I. Special Education and the Covid 19 Pandemic

There is no question that the Covid-19 pandemic has altered the educational landscape in ways we could not have imagined only a few months ago. There are no easy answers for the instruction and safety of any of our students, especially those with special needs. All choices for the immediate future are immersed in uncertainty and controversy.

What really counts are effective policies and practices that provide the highest quality of education for all students regardless of their race, socio-economic status, English language proficiency, or disability. The Superintendent, in a recent video call with 100 concerned citizens from Parents Seeking Solutions, laid out a persuasive case for addressing the many formidable challenges facing the Yonkers Public Schools both before and during the Covid-19 crisis.

The Superintendent and District Administration have been somewhat successful in addressing age-old problems which existed through several previous administrations. And yet, the special education department remains hollowed out from years of professional and staff cuts which have overburdened an under-resourced department that represents almost 20% of the school population. We contend that all cuts made to services and staffing are not equal and must be carefully considered in the context of historical reality, degrees of disabilities, program costs and the disproportionate impact on families and student disorientation caused by this crisis. We envision a unique and substantive opportunity to change the fortunes of special education youngsters to align with the district's stated principles of striving for equity and excellence.

Our mission, as stated in the Council President's Advisory Board's guidelines, is **to identify, analyze and recommend effective policies to mitigate special education concerns within the Yonkers Public Schools**. In choosing to make recommendations relative to the pandemic crisis we clearly do not wish to substitute our thinking for those officials charged with the responsibility of safeguarding our public schools. Our purpose, then, is to focus on the specific needs of special education students which have unfortunately been exacerbated by school closures and the impending changes in how we educate all children. Fears of students being adversely affected by remote instruction and inconsistent learning are magnified in the families of special education youngsters who are already behind socially, academically, and significantly more dependent on the in-person services provided by the schools.

Recommendations

- Space limitations and air quality issues have been noted by the Superintendent in his assessment of school facilities. Since these issues of cramped and/or otherwise inappropriate spaces fall disproportionately among the Special Education facilities, **we recommend that special attention be given to assure families of these youngsters that provisions have been made to secure facilities that are safe, spacious and appropriate; offsite locations should be considered where current circumstances are unacceptable relative to state and federal guidelines.**
- One of the areas of note in our two-year examination of Special Education concerns is the minimal training of dedicated support staff. We know that support staff are an essential component of the special educational environment; however, their expertise was not leveraged to support students and families in the remote learning process. **We recommend additional professional development for these key personnel to be utilized effectively while promoting their individual growth.** Unquestionably, there will be a need for additional staff just to handle new procedures. Given the special circumstances related to many special education students, things such as using the restrooms in a socially distanced manner, will require trained staff to assure their health and safety.
- The fear of regression is particularly acute and documented among parents of special needs youngsters. With the unemployment statistics for Yonkers (June, 2020) exceeding 17% it is clear that many families will not have the option of staying home to supervise remote instruction. **Specific proposals should be presented to address these concerns with safe offsite locations, tutoring options using student teachers, availability of additional mental health resources and extended programs, including twelve-month services providing additional opportunities for school support.**

II. The State of Social Justice and Discipline Policy as it affects the special education population

A major component of the recent revisions to the Yonkers Code of Conduct includes the implementation of Restorative Practices. Rooted in Restorative Justice, Restorative Practices represents a growing field of study which focuses on repairing relationships and harm done to others rather than punishing offenders and leaving victims without the opportunity to process and persevere through offense and injury. Addressing conflict resolution through Restorative Circles has been an increasingly effective and popular intervention across schools nationally and internationally. Furthermore, implementation of Restorative Practices drastically reduces antiquated and counter-productive methods of accountability such as suspensions and expulsions which do not take behavioral challenges resulting from childhood trauma or Autism into consideration and which disparately impact students of color and students with disabilities. This modality represents a concrete systemic culture change which has been statistically proven effective in combating the “school to prison pipeline.”

“The sooner and more meaningfully involved people can be, the greater the chances of successful change” (Pasmore, 2011). Involvement is the most critical component of building commitment to any organizational change effort. Restorative Practices implementation involves culture change. As culture is pervasive in a school community, it would behoove YPS to involve all YPS staff in Restorative Practices training as well as establishing benchmarks of competency.

Effective implementation of Restorative Practices will lead to increased collaboration, cooperation, and relationships between teachers, students, and administrators, improved school climate, reduction of youth behavioral challenges, and enhanced practice of Diversity, Equity, and Inclusion (interruption of school to prison pipeline and facilitation of authentic cross-cultural dialogue and learning).

Recommendations

- **Invest in professional development to certify at least one YPS staff member from each district school as a Restorative Practices trainer.** This will be necessary for building capacity for ongoing training, coaching, and implementation of Restorative Practices in each district school building.
- **Train all YPS employees in Restorative Practices.** This can be accomplished over two professional development training days focused on “Intro to Restorative Practices” and “Using Circles Effectively.”
- **Create an Implementation Committee with a diverse membership of YPS teachers, paraprofessionals, administrators, and stakeholders.** Empower this committee to lead district-wide Restorative Practices implementation with access to relevant information and authority to recommend structural and systems changes as necessary to achieve operational alignment.

- **Invest annually for three years with the International Institute for Restorative Practices.** This will ensure for an ongoing consultation relationship to aid with all aspects of Restorative Practices implementation and fidelity.
- **Implement health & safety adaptations due to COVID-19 while continuing to drive forward training and implementation of Restorative Practices.** Consider virtual training and facilitation options.

III. The Budgeting, Policy and Legal Issues which have continued to plague the special education community

Since the financial crisis of 2008, budgeting and fiscal issues have persevered, as have the difficulties in providing adequate special education services. The capacity of schools and practitioners to provide educational supports to students has been significantly reduced by the decrease in staffing. Most challenging has been that the reductions have been accompanied an increase in the population of our special education youngsters, now making up almost 20 % of our student body.

Notwithstanding the many challenges the district has faced, in February, 2020, the NYSED indicated that , “It should be noted that recent monitoring activities conducted in the district have identified the resolution of longstanding noncompliance dating back to the 2013-2014 school year.” The efforts of the special education administrative team have resulted in systemic changes to build capacity across the district. However admirable these changes, though, special education services remain under-resourced, under-staffed and in need of reorganization efforts to continue to build capacity and to reach full compliance with NYS Education Law.

Special Education is governed at the federal level by several laws. It is through this legislation that funds are disbursed to NYS, then to individual districts based on applications for program funding. It is unclear to this committee if every possible source is being tapped at the federal, state and city levels. Toward that end, it is suggested that YPS grant writers be effectively utilized to access all possible financial resources to support our special needs students. Additionally, we suggest that YPS, in partnership with the other “Big 5” cities lobby NYS to modify changes implemented for Medicaid reimbursement for counseling as a related service. Those changes have resulted in significant decreases in funding and should be re-examined.

At the state level, regulations have been developed to ensure compliance with federal directives. Many of these regulations provide specific recommendations about how districts can comply with federal laws. As such, YPS is bound by policies and procedures that are external to city-level policymakers. One such directive is the establishment of Committees on Special Education with specifically designated members, whose main purpose is the timely evaluation and placement of students.

Under Federal Law IDEA, school districts have 60 days from the point of initial referrals to evaluate and recommend placement to a special education setting. Despite the district's best efforts, Yonkers is consistently out of compliance with these mandates. Student/parent wait times well exceed 60 days, which has invited scrutiny from state and federal agencies.

It is imperative that a reorganization of CSE Committees and timing of meetings be reviewed and implemented to address the backlog of referrals. A segment of this reorganization is the referral process itself, currently a cumbersome and inefficient system. It is the suggestion of this committee that it be decentralized to the extent possible, using the 2019-2020 student classification data supplied by the superintendent.

The impact of Covid-19 has impeded in-person evaluations, program reviews, triennials and transition meetings. As such, it has become apparent that a remote format is necessary to halt any interruption of progress for students and families. It is vital that remote assessment tools be researched and adopted, that staff be trained with such tools and that the appropriate technology be available for use by families as needed.

RECOMMENDATIONS

- **Make systemic changes** to build capacity across the district and seek opportunities for additional supports and resources
- Increase efforts to **maximize all available federal and state funding** through grants and partnerships
- Undertake a **comprehensive reorganization of the special education referral** process to improve efficiency and reduce the backlog of hundreds of students waiting for services
- **Adopt a protocol for remote evaluations** that includes training of appropriate staff and provisions for technological equipment.
- **The Superintendent recommended four objectives for the 2020-21 school year. We recommend a fifth priority be added to specifically address the needs of the special education population.** Such a statement will bring the unresolved issues among the children with special needs into public focus and express the ongoing commitment of the school system to extend the promise of student achievement to all members of the community.
- We share the confidence expressed by the Board of Education Trustees in extending the contract of our Superintendent. As a result, we see a unique opportunity in this time of leadership stability and organizational continuity to **recommend a comprehensive five year plan to gradually promote increased, appropriate levels of staffing, provide additional necessary funding over time and remove the stigma of regular federal and state sanctions for non-compliance with Special Education Laws.** Research

supports the proposition that it is only possible to make substantial change with a strong, committed superintendent and supportive Board of Education over an extended period.

We fully appreciate that in this time of fiscal emergency and limited available resources it is difficult to envision a brighter future for the entire school system let alone resolve issues around children with special needs. It is our hope that, through a changing political environment, the shifting of national priorities and the current educational leadership structure, Yonkers can seize the opportunities which will emerge in the foreseeable future to resolve years of inadequate and inequitable treatment of the Special Education program.